

REMARKS

I. Introduction.

Claims 1-4 and 7-19 are pending, and stand rejected. An objection was made to the specification under 35 U.S.C. Section 132 for purportedly introducing new matter into the disclosure. Claims 1-4 and 7-19 were rejected under 35 U.S.C. Section 112, first paragraph for purportedly failing to comply with the written description requirement. Claims 1-4 and 7-18 were rejected under 35 U.S.C. Section 112, second paragraph. The rejections of various groups of claims under 35 USC Sections 102 and 103 were maintained. In addition, Claim 19 was subjected to various rejections under 35 U.S.C. Section 102. Claims 1-4, 7, 9-11, 13, and 19 were provisionally rejected under the judicially created doctrine of obviousness-type double patenting.

II. Original Grounds of Rejection.

A. The Rejection of Claims 1-4 and 7-18 under 35 U.S.C. Section 112.

The rejection of Claims 1-4 and 7-18 under 35 U.S.C. Section 112, second paragraph, for containing the phrase "less than about" was maintained for the reasons of record.

The prior Office Action stated that Claims 1-18 were rejected under 35 U.S.C. Section 112, second paragraph because the phrase "less than about" in Claims 1 and 2 was said to render the claims vague and indefinite. The Office Action cites MPEP 2173.05(b) in support of the rejection.

The Applicants expressly disagree with the statement in the Office Action that claims reciting "less than about" are invalid for indefiniteness. The Applicants' attorney has reviewed two of the cases cited in MPEP Section 2173.05(b), *W.L. Gore* and *Amgen*. According to the MPEP, two of the cases cited, *Ex Parte Eastwood* and *W.L. Gore & Associates v. Garlock*, held that claims having language similar to the "less than about" language in the pending claims was not indefinite. The only case cited in support of this type of language being indefinite was *Amgen v. Chugai*. The *Amgen* case involves a patent directed to technology for producing erythropoietin (EPO) using recombinant DNA technology. The claims in issue were directed to homogeneous erythropoietin having a specific activity of at least about 160,000 IU. The district court found that since, among other things, "bioassays provide an imprecise form of measurement with a range of error", this language was indefinite. This was upheld by the Federal Circuit. This differs from the

holding of *W.L. Gore* in that in *W.L. Gore*, the court held that the language "stretching . . . at a rate exceeding about 10% per second" in the claims was not indefinite because infringement is clearly assessable through the use of a stopwatch. The Applicants' attorney believes that the *Amgen* case should only be applicable to those cases with similar facts where the claimed means of measurement is imprecise, rather than to all cases where the term "about" is used. The Applicants submit that the present rejection should be withdrawn because the claimed contact angle can be clearly ascertainable by well-known measurement techniques.

B. The Rejection of the Claims Under 35 U.S.C. Sections 102 and 103.

The rejection of various groups of claims under 35 U.S.C. Sections 102 and 103 was maintained.

The Applicants responded that the references did not teach that the cleaning composition was for cleaning the exterior surface of a vehicle. In the present Office Action, the examiner asserts that the phrases "[a] cleaning composition for cleaning exterior surfaces of a vehicle," and "wherein said polymer modifies at least a portion of an exterior surface of a vehicle" in Claims 1 and 2 sets forth an intended use of the composition without adding structure, and thus was not accorded any patentable weight.

It is respectfully request that this rejection be reconsidered and withdrawn. The Applicants submit that the phrase "wherein said polymer modifies at least a portion of an exterior surface of a vehicle," is in the body of Claim 1, and refers to a property of the claimed composition when it is applied to the surface of a vehicle. This phrase should, therefore, be given patentable weight. Further, process Claim 16 has been amended to incorporate the surfaces to be treated. Therefore, the Section 102 and 103 rejections of the various groups of claims should be withdrawn.

In addition, the Applicants have followed the Examiner's suggestion, and formulated method claims that incorporate the surfaces to be treated.

III. The New Grounds of Rejection.

A. The Objection to the Specification.

Claims 1 and 2 have been amended to specify that the composition has a pH that is within a neutral pH range. Th Applicants submit that this should eliminate the basis for th objection to the specification.

B. The 35 U.S.C. Section 112 Rejections.

1. The Section 112 First Paragraph Rejections.

Claims 1-4 and 7-19 were rejected under 35 U.S.C. Section 112, first paragraph for purportedly failing to comply with the written description requirement.

Claim 1 has been amended to specify that the composition has a pH that is within a neutral pH range. The Applicants submit that this should eliminate the basis for the rejection of Claims 1-4 and 7-19.

2. The Section 112 Second Paragraph Rejection of Claim 19.

The amendment to Claim 1 should eliminate the basis for the rejection of Claim 19.

C. The Rejections of Claim 19 Under 35 U.S.C. Section 102.

The rejection of Claim 19 under 35 U.S.C. Section 102 should be reconsidered and withdrawn for the reasons set forth in Section II B of this response.


IV. The Double Patenting Rejection.

The Applicants will consider submitting a terminal disclaimer herein to obviate the double patenting rejection when allowable subject matter is indicated.

V. Summary.

All of the objections and rejections have been addressed. A Notice of Allowance is respectfully requested.

Respectfully submitted,
IAN BERTREM, ET AL.

By 
Jeffrey V. Bamber
Attorney for Applicant(s)
Registration No. 31,148
(513) 627-4597

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